

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM,	\$	
STEPHANIE KINGREY, AND	\$	
SANDRA McCOLLU,	\$	
INDIVIDUALLY AND AS	\$	
HEIRS AT LAW TO THE	\$	
ESTATE OF LARRY GENE	\$	
McCOLLUM,	\$	CIVIL ACTION NO.
Plaintiffs,	\$	3:12-CV-02037
	\$	
VS.	\$	
	\$	
BRAD LIVINGSTON, JEFF	\$	
PRINGLE, RICHARD CLARK,	\$	
KAREN TATE, SANDREA	\$	
SANDERS, ROBERT EASON,	\$	
THE UNIVERSITY OF TEXAS	\$	
MEDICAL BRANCH AND THE	\$	
TEXAS DEPARTMENT OF	\$	
CRIMINAL JUSTICE,	\$	
Defendants.	\$	

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ORAL AND VIDEOTAPED DEPOSITION OF
RICHARD C. THALER
VOLUME 1

October 18, 2013

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ORAL AND VIDEOTAPED DEPOSITION OF RICHARD C.

THALER, produced as a witness at the instance of the
PLAINTIFFS, and duly sworn, was taken in the
above-styled and numbered cause on October 18, 2013,
from 9:00 a.m. to 4:35 p.m., before Brenda J. Wright,
RPR, CSR in and for the State of Texas, reported by
machine shorthand, at the Office of the Attorney
General, 300 West 15th Street, Suite 1200, Austin,

Stephen McCollum, et al. v.
Brad Livingston, et al.

Richard C. Thaler
October 18, 2013

1 A. Yes, sir.

2 Q. They work hand in hand, to your knowledge?

3 A. As all division directors do, yes, sir.

4 Q. Did Mr. Stephens function kind of as your
5 chief of staff in a way?

6 A. I wouldn't say that. All three deputy
7 directors carried on different responsibilities and
8 covered different components of the Correctional
9 Institutions Division, so Mr. Stephens surely had his
10 portion of that.

11 Q. Each of them collectively functioned as
12 essentially a chief of staff for you?

13 A. Yes.

14 Q. Fair?

15 A. They reported -- I relied on them to -- to
16 bring issues to my attention that needed to be
17 addressed, yes, sir.

18 Q. Okay. When a policy is finally made, is
19 Director Livingston -- does it require his approval?

20 A. In -- there is different signatures, but in
21 most cases an administrative directive would be signed
22 by Mr. Livingston. There are some administrative
23 directives that would be signed by the executive
24 deputy director.

25 Q. Would he be involved at all in -- did you

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1 ever -- I mean, did you have personal conversations
2 with Director Livingston about the extreme heat inside
3 the Texas prison system, generally?

4 A. In general, particularly in -- as we went
5 into each seasonal year, we surely generated the
6 initial notification to all staff. There, I'm sure,
7 were conversations that we had as we were going into
8 each seasonal period where I would assure
9 Mr. Livingston that directions were put out to the
10 field and training was being conducted. As we had the
11 incidents occur in 2011, I would have surely discussed
12 with Mr. Livingston the subject matter of the
13 incidents that were occurring and steps that were
14 being taken to address the issue.

15 Q. Okay. So the individuals that died in --
16 well, when did you take over your job as --

17 A. 2009.

18 Q. 2009. Okay. So any offender death that was
19 linked to hyperthermia, you would have discussed that
20 with Director Livingston?

21 A. I can't say that I discussed specific
22 individual incidents with Mr. Livingston in all cases.
23 In some cases, the cause of death wasn't identified
24 until sometime after -- after the incident. But the
25 general subject matter about, as Health Services

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1 Division provided information that we were dealing
2 with deaths as a result of hyperthermia, the general
3 subject matter surely would have been discussed with
4 Mr. Livingston.

5 Q. Okay. And even before you discussed deaths
6 due to hyperthermia with Mr. Livingston, do you know
7 if he was knowledgeable about the dangers extreme heat
8 posed to inmates in the Texas prison system?

9 A. I can't speak for Mr. Livingston.

10 Q. Would you expect him to be knowledgeable
11 about the dangers of extreme heat in the Texas prison
12 system?

13 A. I would expect that Mr. Livingston is
14 knowledgeable about many things, but I can't speak to
15 what his knowledge level was in any particular area.

16 Q. Well, you train all of your officers, from
17 the lowest correctional officer up until yourself,
18 heading the Correctional Institutional Division --

19 A. Right.

20 Q. -- about the dangers of extreme heat in the
21 prison system. Right?

22 A. Yes, sir.

23 Q. Wouldn't you expect the executive director
24 of the prison system to be equally knowledgeable about
25 those policies and problems?

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1 A. I believe it's a million dollars. I believe
2 it's a million dollars.

3 Q. As -- anything under a million dollars,
4 Director Livingston, yourself, the
5 Facilities Division, you guys have the power to make
6 that happen without Board approval?

7 MS. COOGAN: Objection. Incomplete
8 hypothetical.

9 Q. (BY MR. EDWARDS) Is that true?

10 MS. COOGAN: Objection. Incomplete
11 hypothetical.

12 A. I believe so.

13 Q. (BY MR. EDWARDS) All right. And somewhat
14 above a million dollars, you believe the board -- the
15 Board of Corrections would need to approve that.
16 Correct?

17 A. Correct.

18 Q. Okay. Other than the extra step of Board of
19 Corrections approval, assuming that we're above the
20 million dollar mark, are there any other steps that
21 need to happen at the -- at the below-board approval
22 for a million dollar-plus expenditure?

23 A. When you say "other steps," are you talking
24 about steps within the divisions or approval --

25 Q. You rolled through kind of like how the

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1 Executive Director.

2 Q. And it is my understanding that you wrote
3 this letter.

4 A. No, sir, I did not.

5 Q. Okay. Did Mr. Livingston write this letter,
6 then, to the best of your knowledge?

7 A. I could not speak to who wrote this letter.

8 Q. Is that his signature?

9 A. I would assume it's his signature.

10 Q. Have you ever seen his signature before?

11 A. I have, but to be honest with you, I don't
12 recall what it looks like.

13 Q. All right. Okay. Well, at least in this
14 letter it looks like Mr. Livingston is talking about
15 system-wide protocols and what the -- the system is
16 doing to protect inmates from the dangers of heat. Is
17 that your -- is that a fair reading of this document?

18 A. I'm reading over it.

19 That appears to be what is being
20 addressed.

21 Q. Since you did not author this, I guess would
22 it be better for us to ask questions of Director
23 Livingston about this letter?

24 A. I don't know who would be better to offer --
25 to ask the questions of, but I can't tell you who

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1 A. Again, I would --

2 Q. (BY MR. EDWARDS) In your opinion?

3 A. I would assume that Mr. Livingston had
4 continued conversations with the legislative officials
5 and wouldn't assume that this is the only discussion
6 that he had.

7 Q. All right. Well, that's a good point.
8 Based on your knowledge of Director Livingston and
9 policy making functioning at the department, with the
10 legislature, fair to say that this is not the -- this
11 is not the only discussion that Director Livingston
12 and his staff would have had with members of the
13 legislature about heat-related issues?

14 MR. GARCIA: Objection. Speculation.

15 A. Again, I would --

16 Q. (BY MR. EDWARDS) Based on your knowledge?

17 A. I would be speculating. I don't know of any
18 specific other discussion that any individual had, but
19 I would presume that there might have been some.

20 Q. You would expect there to be continuing
21 discussion about this issue because of its import?

22 MR. GARCIA: Objection. Speculation.

23 A. Again, that would have to be an assumption.

24 Q. (BY MR. EDWARDS) Okay. Did you have
25 ongoing conversations with members of the legislature

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THE UNIVERSITY OF TEXAS \$
MEDICAL BRANCH AND THE \$
TEXAS DEPARTMENT OF \$
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Defendants. \$

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REPORTER'S CERTIFICATION
ORAL AND VIDEOTAPED DEPOSITION OF
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* * * * *

I, BRENDA J. WRIGHT, Certified Shorthand

Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, RICHARD C. THALER, was duly
sworn by the officer and that the transcript of the
oral deposition is a true record of the testimony
given by the witness;

I further certify that pursuant to Federal
Rules of Civil Procedure, Rule 30(e)(1)(A) and (B) as

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1 well as Rule 30(e)(2) that the signature of the
2 deponent:

3 __X__ was requested by the deponent and/or a
4 party before completion of the deposition and is to be
5 returned within 30 days from date of receipt of the
6 transcript. If returned, the attached Changes and
7 Corrections and Signature pages contain any changes
8 and the reasons therefor;

9 _____ was not requested by the deponent and/or a
10 party before the completion of the deposition.

11 That \$ _____ is the deposition
12 officer's charges for preparing the original
13 deposition transcript and any copies of exhibits,
14 charged to PLAINTIFFS;

15 That pursuant to information given to the
16 deposition officer at the time said testimony as
17 taken, the following includes all parties of record:

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26 Mr. Scott Medlock
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18
19 I further certify that I am neither attorney
20 nor counsel for nor related to nor employed by any of
21 the parties to the action in which this deposition is
22 taken;

23 Further, I am not a relative nor an employee of
24 any attorney of record in this cause, nor am I
25 financially or otherwise interested in the outcome of

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1 the action.

2 Certified to by me this 29TH day of OCTOBER,
3 2013.



4 BREND A J. WRIGHT, Texas CSR No. 1780
5 Expiration Date: 12-31-14
6 WRIGHT WATSON & ASSOCIATES
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